

### **REMARKS**

As a result of this amendment, claims 1, 3-17, 19-21, 23, 25-27, 29, 30, 32, and 34 are pending. All the claims currently stand rejected as anticipated under 35 U.S.C. §102 or obvious under 35 U.S.C. §103.

A detailed response to the rejections follows. However, applicant reserves all applicable rights not exercised in connection with this response, including, for example, the right to swear behind one or more of the cited references, the right to rebut any tacit or explicit characterization of the references, and the right to rebut any asserted motivation for combination. Applicant makes no admission regarding the prior art status of the cited references, regarding them as being only of record.

#### **Response to §102 Rejections**

Claims 1, 4-5, 7-9, 15-16, 25-27, and 30-32 were rejected under 35 U.S.C. §102(b) for anticipation by Ballantyne (U.S. Patent 5,867,821).

Regarding the rejection of claims 1, 4, 5, 7-9, 15-16, applicant submits respectfully that these claims have been amended to more readily distinguish from Ballantyne. Specifically, each of these claims recites an ergonomic button, actuator, or feature, which the Examiner has conceded, at page 6, paragraph 5, of the Office Action, to be missing from Ballantyne. Accordingly, applicant requests respectfully that the Examiner withdraw the §102 rejection of these claims.

Regarding claims 25-27, 29, and 30, applicant submits respectfully that these claims have also been amended to more readily distinguish from Ballantyne. Specifically, these claims now recite that “the main database comprises a census of each patient within the medical facility and an expected discharge time.” The Examiner conceded, at page 10, paragraph 7, of the Office Action, to be missing from Ballantyne. Accordingly, applicant requests respectfully that the Examiner withdraw the §102 rejection of claims 25-27, 29, and 30.

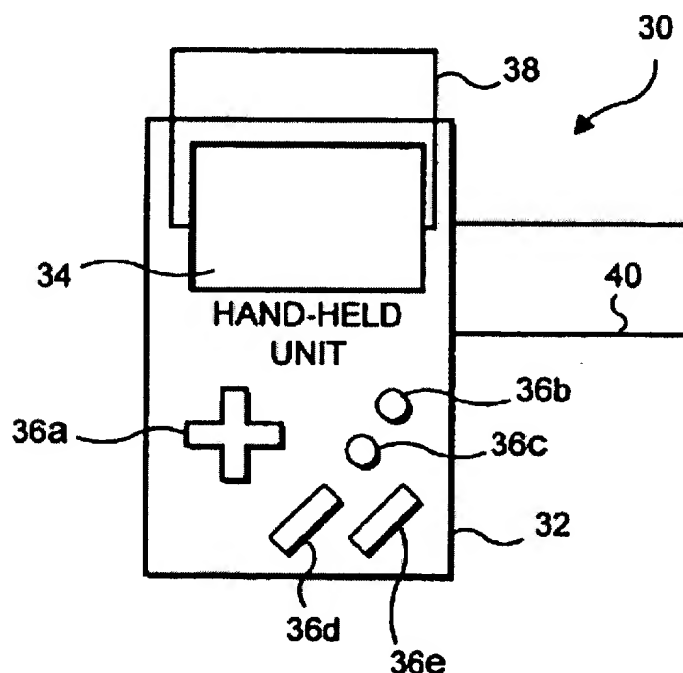
### Response to §103 Rejections Based on Ballantyne and Brown

The Examiner rejected claims 2, 17, 19, 21, and 23 under 35 U.S.C. §103(a) as unpatentable over Ballantyne in view of Brown (U.S. Patent 5,918,603).

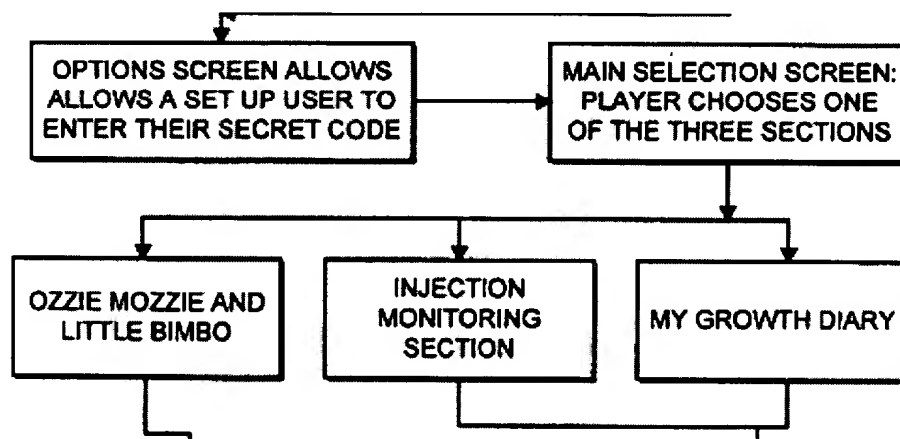
In making the rejection the Examiner conceded that Ballantyne fails to teach “providing ergonomic actuators within said medical records to move between different screens containing different classes of medical information for an associated patient, wherein each ergonomic actuator is large enough to allow actuation via a user’s finger.” However, the Examiner alleges that Brown teaches these actuators at Fig. 3., col. 4, lines 59-54 and Fig. 12.

In response, applicant submits respectfully that one of ordinary skill would not regard the cited passages and figures of Brown as teaching the requisite ergonomic actuator, button, or feature. The cited passage states, in reference to the portion of figure 3 shown below:

The block diagram of FIG. 3 shows a particularly convenient embodiment for implementing the diagnosis and treatment method. A hand-held microprocessor unit 30 is equipped with a video display 34 and a number of input switches or keys 36a, 36b, 36c, 36d, and 36e, which are mounted on a housing 32. A set of components including a



However, there's nothing in this passage that one of ordinary skill would regard as teaching use of the reported buttons in Figure 3 to move or switch or invoke display of particular classes of information from a medical record. The passage is entirely devoid of any discussion of any usage of the buttons to move or switch between portions of a patient medical record. Similarly, it does not appear that one of ordinary skill would regard Figure 12, a flow chart for a video game, as teaching the requisite ergonomic feature. Indeed, it appears, at least in the portion shown below, that Brown provides some kind of mechanism for allowing a player to choose between three sections of the video game that teach a patient.



The first section teaches about things that grow and use of growth hormones; the second section teaches about preparing and administering doses of growth hormone; and the third part is a growth diary where the patient records and sees various graphics displaying growth progress. (See col. 7, line 36- column 8, line 44.)

Thus, Brown fails to teach the requisite ergonomic button or actuator of the present claim. Therefore, even if one of ordinary skill were motivated to combine Ballantyne and Brown the result would fall short of the claimed invention.

Moreover, the motive cited in the Action for making the combination of Ballantyne and Brown is insufficient. In the Action, the Examiner cites the generic motive of providing a user-friendly interface as sufficient to lead one of ordinary skill to combine Ballantyne and Brown and arrive at the invention of the rejected claims. However, absent hindsight, there's no

reasonable certainty that the present invention would result from this generalized motive.

There's no evidence been cited that one of skill would regard Ballantyne as lacking a user-friendly interface or that one of skill would regard Brown's interface as being more user friendly than Ballantyne's.

Accordingly, applicant requests respectfully that the Examiner reconsider and withdraw the 103 rejections of claims that recite the ergonomic actuator, button, or feature.

Additionally, applicant notes that some of the claims, namely claims 9 and 17 and their respective dependents, recite "user-selectable ergonomic features to invoke display of the lab result information, the vital sign information, and the prescription information," or that "the ergonomic buttons include a button for invoking display of lab result information, a button for invoking display of the vital sign information, and a button for invoking display of the prescription information."

#### **Response to §103 Rejections Based on Ballantyne and Kilgore**

Claims 28 and 29 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ballantyne et al. (U.S. Patent No. 5,867,821) in view of Kilgore (U.S. Published Patent Application No. 2002/0072911 A1). In making the rejection, the Examiner conceded that Ballantyne does not disclose the main database [as comprising] a census of each patient within the medical facility and an expected discharge time," but argues that Kilgore discloses this feature by stating "various types of information related to each patient."

In response applicant submits respectfully that the Examiner's treatment of the phrase "various types of information related to each patient" to be a form of census is tantamount to taking official notice regarding the definition of census employed within the field of medical records. Therefore, applicant requests respectfully, under MPEP 2144.03 and 37 CFR §1.104(d)(2), that the Examiner submit documentary evidence, in the form of an appropriate reference or a personal affidavit, supporting the factual allegation regarding the definition of census within the field of medical records. Absent appropriate evidentiary support, applicant requests respectfully that the Examiner reconsider and withdraw the §103 rejections premised on the alleged definition.

**Response to §103 Rejections Based on Ballantyne and Walker**

Claim 3 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ballantyne in view of Walker (U.S. Patent 6,302,844 B1). In response, applicant submits respectfully that the rejection is believed to be moot with the amendment of claim 1, from which claim 3 stems, to recite an ergonomic actuator feature.

**Response to Other §103 Rejections Based on Ballantyne**

Claims 33 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ballantyne in view of Felsher (U.S. Published Patent Application 2002/0010679 A1); claim 6 was rejected similarly based on Ballantyne and Nguyen; claims 10-14 were rejected similarly based on Ballantyne and Chesanow; and claim 20 was rejected based on Ballantyne, Brown, and Chesanow.

The rejections of these claims as described above is believed to be moot in view of the amendments. Accordingly, applicant requests respectfully that the Examiner reconsider and withdraw them.

**CONCLUSION**

In view of the amended claims and the foregoing remarks, applicant requests respectfully that the Examiner reconsider and allow the application. Applicant invites the Examiner to telephone its patent counsel Eduardo Drake at (612) 349-9593 to facilitate further prosecution of this application.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 09/776,484

Filing Date: February 2, 2001

Title: METHOD AND SYSTEM FOR EXTRACTING MEDICAL INFORMATION FOR PRESENTATION TO MEDICAL PROVIDERS ON MOBILE TERMINALS

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If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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26 July 2006

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26th day of July 2006.

Name

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Signature